IN HE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA SOUTHERN DIVISION

No: 7:11-CR-00117-BR

UNITED STATES OF AMERICA)	
v.))	ORDER
BRENDON EVAN HOLE,)	
Defendant.)	

This matter is before the court on the motion of Defendant to obtain without payment of fees a copy of the docket sheet, judgment, arraignment transcript, and statement of reasons from this case. [DE-76]. Defendant previously requested a copy of the transcript from his sentencing, and the court provided Defendant with a courtesy copy without payment of the required fee. [DE-71]. Defendant then requested a free copy of the plea agreement and the discovery packet from his case. [DE-74]. The court denied the request "[b]ecause there is no constitutional requirement that the government provide an indigent defendant with free transcripts or other court documents in order to collaterally attack a conviction or sentence, the defendant must show a "particularized need" for the documents." [DE-75] (citing Morin v. United States, 522 F.2d 8, 9 (4th Cir. 1975) (citing Jones v. Superintendent, Va. State Farm, 460 F.2d 150, 152-53 (4th Cir. 1972))). The court found that Defendant had not commenced a proceeding under 28 U.S.C. § 2255, nor had he articulated any possible § 2255 claims, and Defendant had not asserted why he needed a copy of his plea agreement. *Id.* Accordingly, the court concluded that Defendant had not asserted the requisite particularized need for the requested documents. Id. (citing United States v. Anderson, No. 2:94cr163, 1997 WL 138970, at *5 (E.D. Va. Mar. 14. 1997) (unpublished) (denying a request for documents at government expense where

defendant "failed to set forth specific factual allegations in support of a § 2255 motion which would

enable the court to determine whether it was frivolous, and . . . has not established that he needs the

copies of court documents and transcripts to set forth in summary form the facts in support of a §

2255 claim")).

Again, Defendant has failed to make a particularized showing of need for the requested

documents. Thus, "[t]o grant [Defendant's] request at this juncture would only encourage a 'fishing

expedition' by [D]efendant at the expense of the government." Anderson, 1997 WL 138970, at *5.

However, as the court stated in its previous order, Defendant may be able to show a particularized

need for the requested documents in the future. See United States v. McLean, No. 5:10-CR-00125-

H, 2011 WL 5870045, at *1 (E.D.N.C. Nov. 22, 2011) (unpublished) (denying a motion for

reconsideration and noting that "[o]nce Defendant has commenced a Section 2255 proceeding,

discovery may thereafter be available and that if [Defendant] qualifies for in forma pauperis status,

he may be eligible to receive copies of the transcripts at the Government's expense at that time").

Accordingly, Defendants' motion is DENIED at this time.

SO ORDERED, this **9** day of February 2016.

Robert B. Jones Jr

United States Magistrate Judge

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